

**April 29, 2010 Minutes of
Bigfork Land Use Advisory Committee
Bethany Lutheran Church**

Committee members present: John Bourquin, Gary Ridderhoff, Darrel Coverdell, Chuck Gough, Paul Guerrant, Sue Hanson and 7 members of the public.

Vice-Chairman Guerrant called the meeting to order at 4: 10 pm.

The Agenda was adopted as presented (m/sc Coverdell/Gough) – unanimous.

Minutes of the February 25, 2010 meeting were approved as emailed- unanimous. (m/sc Gough/Bourquin).

ADMINISTRATOR’S REPORT:

A. Sign-in Sheet: Reminder to the public of the availability of BLUAC minutes through email and BSC website bigforksteering.org/. Agendas are posted on the Flathead County Planning Office website flathead.mt.gov/

B. Application status: County status on previous pending applications: Caverly/Schraeder- Approved by the Planning Board April 14, 2010

C. Secretary presented a support letter for the Bigfork Stormwater Project for the Flathead County Commissioners. This letter will be used for the RRGL/DNRC Grant application. Committee approved the letter unanimously.

APPLICATIONS:

A. Bigfork Water and Sewer (FPAE 10-02): A request by the Bigfork Water and Sewer District to improve the current facility by constructing new buildings to house new wastewater treatment processes. The property is located off Harbor Heights Blvd in Bigfork. Morrison-Maierle, Inc. gave notice to the Board of Adjustment of Flathead County that it intends to construct new buildings and access drives which would be contrary to zoning regulations adopted by Flathead County as the property is zoned B-3 (Community Business). Pursuant to 76-2-402, MCA, the board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

STAFF: Bailey Iott presented the application. The Bigfork Water & Sewer District property is exempt from zoning regulations. The application is presented for information and public comment only. Property is zoned B3 (Community Business).

APPLICANT: The expansion is necessary to upgrade the sewer plant.

Bourquin: Asked if the 20’ setback noted on the application was on the west side of the property? A. That is correct. The building will be set back approximately 15’ from the road.

Coverdell: Will you be building on the MT Hwy 35 side of the property? The state is considering expanding the road in the future. A. No expansion on the east side.

PUBLIC COMMENT:

None

B. Jo Eslick (FCU 10-02): A request by Joseph Eslick for a Conditional Use Permit for an extractive industry to remove five to six inches of topsoil on property located within the Holt, SAG-10 (Suburban Agriculture) Zoning District. The proposed site is located at 7645 Mt Highway 35.

STAFF: Andrew Hagemer presented the application. Extractive industry is qualified by selling anything out of the ground, including topsoil. Under the open cut mining regulations, 4.10, the applicant needs to submit for an application for permit with MDEQ. The amount to be extracted is right on the borderline of the 10,000 cubic yards, which is the limit before requiring a DEQ permit. Hagemer has contacted Rob at DEQ and that department has not received an application from Eslick. DEQ cannot determine if a permit is required until the application is received.

Comments received included:

- Bigfork Water & Sewer District: concerned the sewer manholes remain at current ground levels.
- DEQ: Indicated the applicant should contact them.
- MDOT: Freeholt noted there is a paved apron on the property. The MDOT will need to check to see if use will be within the parameters of the approach.

Applicant will not be working on the entire 10 acres at any time and estimates 5 to 15 vehicle trips per day from the property. Staff is recommending approval with 9 conditions.

APPLICANT: None in attendance.

BLUAC:

Gough: The report indicates two existing permits? A. Correct. The DEQ considers a lifetime extraction of 10,000 cubic yards per person in the family.

Guerrant: The applicant will take care of dust? A. Yes. They will spray with water for dust.

PUBLIC COMMENT:

Craig Wagner: Via email noted that extraction has already commenced on the property before the CU has been approved.

BLUAC:

Guerrant: My question exactly. A. The applicant should not be starting before the CU is approved.

Coverdell: I, too, am concerned that this is another case of beginning something, then coming to ask for approval. We've seen that too often in the past.

Gough: I agree.

Bourquin: With lakeshore permits, if someone constructs something without a permit they are fined. What are the regulations for this? A. The County doesn't have a fine system for zoning violations. In the case of Zoning Violations, the County gives the property owner 30 days to respond to a zoning violation. This application will be heard next Tuesday.

Coverdell: A letter notifying the County of the zoning violation might still be appropriate. My guess is this is just the first phase in more extraction on this property. The property owner needs to know this is an issue.

Secretary was asked to draft a letter and complete the zoning violation forms.

Gough: I move to recommend to the Board of Adjustment that Condition #3 be amended to state the applicant must provide a DEQ permit or a letter from DEQ stating the permit is not necessary.

Ridderhoff seconded the motion. Motion passed unanimously.

Coverdell: I move to recommend approval of the Condition Use Permit with all 9 conditions. Gough seconded the motion. Motion passed unanimously.

The application will be heard by the Flathead County Board of Adjustment, Flathead County Planning & Zoning Office, 1035 First Avenue West, Kalispell, on May 4, 2010, at 6:00 p.m.

OLD BUSINESS:

A. Status on new Sub-Committees per Neighborhood Plan: Craig Wagner reported via email that progress is being made with the Lake County Planning Committee. The BLUAC should receive an email regarding Lake County Subdivision Regulation changes today. The two remaining committees have no progress at this time.

B. Elections: To date there are three applications received for the open position on the Committee for a 1-year term. Chairman Gonzales will forward those applications to BLUAC members when she returns.

The Member At Large position will be noticed 30 days prior, with a 30-day review period following appointment at the June 2010 meeting.

NEW BUSINESS:

A. Guerrant noted two notices from the State for liquor licenses. 1) Beer & wine for the Taco Restaurant at 8270 MT Hwy 35. 2) All alcohol and catering endorsements for The Grill at 459 Electric Ave., Suite 6.

B. Ridderhoff noted a new sign that may be in violation of sign regulations for the Marina on Foothills/Echo Lake Road. Gonzales is aware and will check with Planning & Zoning. It was noted that most of the businesses that were contacted about sign violations were quick to remedy the violation, including the nice sign built at the Little Brown Church.

PUBLIC COMMENT:

Gary Krueger: I am a member of the Board of Adjustment and was interested in attending your meeting. I have a gravel extraction business and am familiar with DEQ regulations. I am not in favor of the B of A revoking permits. This needs to go through the court of law with rules of evidence. However, there may be measures the B of A can take to make our decisions better and avoid situations like the one discussed tonight. Possibly, we can postpone the decision until all conditions are met before granting the Conditional Use Permit.

Julie Spencer: In December you recommended approval of a variance for MB Trust c/o Mountain High Construction to build garage. The property owner has hooked up water and sewer to the garage. I could be just for a bathroom or even an apartment. Just thought you should know.

Craig Wagner: Via email - the Board of Adjustment will meet May 4, 2010 to consider BWS FPAE 10-02 and FCU 10-02.

Meeting was adjourned at 5:05 p.m.

Sue Hanson
BLUAC Secretary